

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,
PLAINTIFF,
VS.

CASE NO.: 00-6342-CR-ZLOCH

ANDREW NATHANIEL Warburton,
DEFENDANT.

**DEFENDANT'S OBJECTION TO PRE-SENTENCE
INVESTIGATION REPORT**

COMES NOW the DEFENDANT, ANDREW N. Warburton, by and through his undersigned counsel, and files his objection to the pre-sentence investigation report. The plea agreement reflects the understanding of the defense and the government that Defendant played a minor role in the charged offense. U.S.S.G. §3B1.2(a). This objection is filed only as to the probation officer's conclusion that no role reduction is warranted.

Application note 3 describes "minor participant" as "any participant who is less culpable than most other participants, but whose role could not be described as minimal." In this case the other participants include Defendant Henry, who is described in the PSI as equally culpable with Defendant Warburton. The other two participants identified would be the owner of the drugs in Jamaica, and receiver of the drugs, in Florida.

Defendant Warburton and Defendant Henry are minor participants in relation to the participants who export, receive and distribute the drugs. These persons earn their livelihood from drug trafficking. The two Defendants, Warburton and Henry, earn legal

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livelihoods working on a cruiseship and committed this crime by way of a moral lapse or failure, enticed by earning easy money. Defendant Warburton acted only as to a single smuggling transaction. Even within the context of this single smuggling transaction the Defendant limited his participation by declining the offer to personally carry the drugs, lessening his value to the criminal scheme. These facts bring the Defendant within the guideline of a minor role participant. U.S. v. Rodriguez De Varon, 175 F. 3rd 930 (11th Cir. 1999).

WHEREFORE, Defendant respectfully files this objection and requests the Court to grant Defendant a minor role reduction.

Respectfully submitted,

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BY: 

MARTIN L. ROTH, ESQUIRE
Fla. Bar No. 265004

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was mailed to Laurence Bardfeld, A.U.S.A., United States Attorney's Office, 500 E. Broward Blvd, 7th floor, Fort Lauderdale, Florida 33394-3002 and Francis Weisberg, U.S. Probation Officer, Federal Courthouse Building, 299 East Broward Blvd., Room 409, Fort Lauderdale, Florida 33301-1865 on this 19th day of March, 2001.

By: 

Martin L. Roth, Esquire